

Remarks

In the Office Communication of March 20, 2007, the Examiner has requested information pursuant to 37 C.F.R. 1.105. Based on prior information Applicant has provided to the Examiner, the Examiner has concluded that "liquid meal, liquid vitamin, GI support, suspendable feed, complete formula liquid etc... were on sale to the public on 8/23/2001. The Examiner has requested information as to whether lactase is present and in what amount in any of the disclosed formulations.

In the attached affidavit, Applicant states that the documentation of Exhibits A-C is the only documentation Applicant has retained regarding the formulations referenced in those documents.

Further, Applicant's affidavit also indicates that the documentation of Exhibits A-C does not reflect a sale of the formulas listed in those documents but is documentation reflecting experimental use. As noted in the Affidavit and is reflected in Exhibits A-C, the recipient of the formula was not charged for receiving the formulas, the amount of the formula provided to the recipient was sufficient to treat a single case, and the recipient of the formula reported the results back to Applicant. The Affidavit further explains that Applicant used "invoices" as a manner to track formula distribution and provide instructions to the recipient. As a result, Applicant respectfully submits that the information provided in Exhibits A-C does not reflect a sale of the referenced formulas but instead demonstrates experimental use of the referenced formulas.

Respectfully submitted,

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/ Wesley W. Whitmyer, Jr./

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